

109TH CONGRESS
1ST SESSION

S. 1135

To authorize the exchange of certain land in Grand and Uintah Counties,
Utah, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2005

Mr. BENNETT (for himself and Mr. HATCH) introduced the following bill;
which was read twice and referred to the Committee on Energy and Nat-
ural Resources

A BILL

To authorize the exchange of certain land in Grand and
Uintah Counties, Utah, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Utah Recreational
5 Land Exchange Act of 2005”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) the area surrounding the Colorado River in
9 Grand County, Utah, and Dinosaur National Monu-
10 ment and the Book Cliffs in Uintah County, Utah,

1 contains nationally recognized scenic vistas, signifi-
2 cant archaeological and historic resources, valuable
3 wildlife habitat, and outstanding opportunities for
4 public recreation that are enjoyed by hundreds of
5 thousands of people annually;

6 (2) the State of Utah owns multiple parcels of
7 land in the area that were granted to the State
8 under the Act of July 16, 1894 (28 Stat. 107, chap-
9 ter 138), to be held in trust for the benefit of the
10 public school system and other public institutions of
11 the State;

12 (3) the parcels of State trust land are largely
13 scattered in checkerboard fashion amid the Federal
14 land comprising the area of the Colorado River cor-
15 ridor, the Dinosaur National Monument, and the
16 Book Cliffs;

17 (4) the State trust land in the area of the Colo-
18 rado River corridor, Dinosaur National Monument,
19 and the Book Cliffs includes significant natural and
20 recreational features, including—

21 (A) portions of Westwater Canyon of the
22 Colorado River;

23 (B) the nationally recognized Kokopelli
24 and Slickrock trails;

1 (C) several of the largest natural rock
2 arches in the United States;

3 (D) multiple wilderness study areas and
4 proposed wilderness areas; and

5 (E) viewsheds for Arches National Park
6 and Dinosaur National Monument;

7 (5) the large presence of State trust land lo-
8 cated in the Colorado River corridor, Dinosaur Na-
9 tional Monument, and the Book Cliffs area makes
10 land and resource management in the area more dif-
11 ficult, costly, and controversial for the United States
12 and the State of Utah;

13 (6) although the State trust land was granted
14 to the State to generate financial support for public
15 schools in the State through the sale or development
16 of natural resources, development of those resources
17 in the Colorado River corridor, Dinosaur National
18 Monument, and the Book Cliffs area may be incom-
19 patible with managing the area for recreational, nat-
20 ural, and scenic resources;

21 (7) the United States owns land and interests
22 in land in other parts of the State of Utah that can
23 be transferred to the State in exchange for the State
24 trust land without jeopardizing Federal management
25 objectives or needs; and

1 (8) it is in the public interest to exchange feder-
2 ally-owned land in the State for the Utah State trust
3 land located in the Colorado River Corridor, Dino-
4 saur National Monument, and the Book Cliffs area,
5 on terms that are fair to the United States and the
6 State of Utah.

7 (b) PURPOSE.—It is the purpose of this Act to au-
8 thorize, facilitate, and expedite the exchange of certain
9 Federal land and non-Federal land in the State to further
10 the public interest by—

11 (1) exchanging Federal land that has limited
12 recreational and conservation resources; and

13 (2) acquiring State trust land with important
14 recreational, scenic, and conservation resources for
15 permanent public management and use.

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18 (1) FEDERAL LAND.—The term “Federal land”
19 means the approximately _____ acres of Federal
20 land located in Grand and Uintah Counties, Utah,
21 as generally depicted on the map.

22 (2) MAP.—The term “map” means the map en-
23 titled “Utah Recreational Land Exchange-Federal
24 and Non-Federal Lands” and dated February 9,
25 2005.

1 (3) NON-FEDERAL LAND.—The term “non-Fed-
2 eral land” means—

3 (A) the approximately _____ acres of
4 State trust land located in the Colorado River
5 corridor in Grand County, Utah, as generally
6 depicted on the map;

7 (B) the approximately _____ acres of
8 State trust land located in the vicinity of Dino-
9 saur National Monument in Uintah County,
10 Utah, as generally depicted on the map; and

11 (C) the approximately _____ acres of
12 State trust land located in the vicinity of the
13 Book Cliffs area in Uintah County, Utah, as
14 generally depicted on the map.

15 (4) SECRETARY.—The term “Secretary” means
16 the Secretary of the Interior.

17 (5) STATE.—The term “State” means the State
18 of Utah, as trustee under the Utah State School and
19 Institutional Trust Lands Management Act (Utah
20 Code Ann. 53c-1-101 et seq.).

21 **SEC. 4. EXCHANGE OF LAND.**

22 (a) IN GENERAL.—If, not later than 30 days after
23 the date of enactment of this Act, the State offers to con-
24 vey to the United States title to the non-Federal land that
25 is acceptable to the Secretary, the Secretary shall—

1 (1) accept the offer; and

2 (2) on receipt of acceptable title to the non-
3 Federal land and subject to valid existing rights, si-
4 multaneously convey to the State all right, title, and
5 interest of the United States in and to the Federal
6 land.

7 (b) CONVEYANCE OF INDIVIDUAL PARCELS.—Not-
8 withstanding that appraisals for all of the parcels of Fed-
9 eral land and non-Federal land may not have been com-
10 pleted under section 5, individual parcels of Federal land
11 and non-Federal land may be exchanged under subsection
12 (a) at any time after the date on which the appraised val-
13 ues of the individual parcels are approved under section
14 5(b)(5).

15 (c) TIMING.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), the exchange of land authorized by sub-
18 section (a) shall be completed not later than 330
19 days after the date on which the State makes the
20 Secretary an offer to convey the non-Federal land
21 under that subsection.

22 (2) EXTENSION.—The Secretary and the State
23 may mutually agree to extend the deadline specified
24 in paragraph (1).

1 **SEC. 5. EXCHANGE VALUATION, APPRAISALS, AND EQUALI-**
2 **ZATION.**

3 (a) **EQUAL VALUE EXCHANGE.**—The value of the
4 Federal land and non-Federal land to be exchanged under
5 this Act—

6 (1) shall be approximately equal; or

7 (2) shall be made approximately equal in ac-
8 cordance with subsection (c).

9 (b) **APPRAISALS.**—

10 (1) **IN GENERAL.**—The value of the Federal
11 land and the non-Federal land shall be determined
12 by appraisals conducted—

13 (A) using, where appropriate, comparable
14 sales of surface and subsurface property; and

15 (B) subject to paragraph (3), in accord-
16 ance with—

17 (i) the Uniform Appraisal Standards
18 for Federal Land Acquisitions (2002);

19 (ii) the Uniform Standards of Profes-
20 sional Appraisal Practice;

21 (iii) section 206(d) of the Federal
22 Land Policy and Management Act of 1976
23 (43 U.S.C. 1716(d)); and

24 (iv) section 2201.3–2 of title 43, Code
25 of Federal Regulations (or successor regu-
26 lations).

1 (2) SELECTION OF APPRAISER.—The appraisals
 2 of the Federal land and non-Federal land shall be
 3 conducted by 1 or more independent third-party ap-
 4 praisers selected jointly by the Secretary and the
 5 State.

6 (3) REQUIREMENTS.—During the appraisal
 7 process, the appraiser shall—

8 (A) consider comparable public and private
 9 sales without regard to—

10 (i) whether the land was acquired for
 11 conservation or preservation purposes; or

12 (ii) the nonprofit status of the entity
 13 making the acquisition; and

14 (B) if value is attributed to the land be-
 15 cause of the presence of minerals subject to
 16 leasing under Federal mineral leasing laws, ad-
 17 just the value proportionately to reflect Federal
 18 mineral revenue sharing, subject to the condi-
 19 tion that the Utah School and Institutional
 20 Trust Lands Administration assume the rev-
 21 enue sharing obligation of the United States
 22 with respect to the land.

23 (4) COSTS.—The Secretary and the State shall
 24 share third party appraisal costs equally.

25 (5) REVIEW AND APPROVAL.—

(A) IN GENERAL.—Not later than 120 days after the date on which the appraiser is selected under paragraph (2), the appraiser shall submit to the Secretary and the State a copy of the completed appraisals for review.

(B) APPROVAL OR DISAPPROVAL.—Not later than 90 days after the date of receipt of an appraisal under subparagraph (A), the Secretary and the State shall independently approve or disapprove the appraisal.

(6) DETERMINATION OF VALUE.—

(A) DETERMINATION BY SECRETARY AND STATE.—If the Secretary and the State are unable to agree on the value of a parcel of land, the value of the parcel may be determined by the Secretary and the State in accordance with paragraphs (2) and (4) of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

(B) DETERMINATION BY COURT.—

(i) IN GENERAL.—Notwithstanding any other provision of law, if the Secretary and the State have not agreed on the value of a parcel by the date that is 1 year after the date of enactment of this Act, a Fed-

1 eral district court (including the United
2 States District Court for the District of
3 Utah, Central Division) shall have jurisdic-
4 tion to determine the value of the parcel.

5 (ii) LIMITATION.—An action to deter-
6 mine the value of a parcel under clause (i)
7 shall be brought not earlier than 1 year,
8 but not more than 3 years, after the date
9 of enactment of this Act.

10 (c) EQUALIZATION OF VALUES.—

11 (1) SURPLUS OF NON-FEDERAL LAND.—If after
12 completion of the appraisal and dispute resolution
13 process under subsection (b), the value of the non-
14 Federal land exceeds the value of the Federal land,
15 the State shall remove parcels of non-Federal land
16 from the exchange until the value of the Federal
17 land and non-Federal land is approximately equal.

18 (2) SURPLUS OF FEDERAL LAND.—If after
19 completion of the appraisal and dispute resolution
20 process under subsection (b), the value of the Fed-
21 eral land exceeds the value of the non-Federal land,
22 the value of the Federal land and non-Federal land
23 may be equalized by—

1 (A) the Secretary and the State removing
 2 parcels of Federal land from the exchange until
 3 the value is approximately equal; or

4 (B) the Secretary and the State adding ad-
 5 ditional State trust land to the non-Federal
 6 land, if—

7 (i) the additional land has been ap-
 8 praised in accordance with an ongoing
 9 Federal acquisition process or program;
 10 and

11 (ii) the appraised value (as deter-
 12 mined under clause (i)) has been accepted
 13 by the Secretary.

14 **SEC. 6. STATUS AND MANAGEMENT OF LAND AFTER EX-**
 15 **CHANGE.**

16 (a) ADMINISTRATION OF NON-FEDERAL LAND.—

17 (1) IN GENERAL.—Subject to paragraph (2)
 18 and in accordance with section 206(c) of the Federal
 19 Land Policy and Management Act of 1976 (43
 20 U.S.C. 1716(c)), the non-Federal land acquired by
 21 the United States under this Act shall become part
 22 of, and be managed as part of, the Federal adminis-
 23 trative unit or area in which the land is located.

24 (2) LIMITATION.—The payment of mineral rev-
 25 enues from the non-Federal land acquired by the

1 United States under this Act shall be subject to sec-
2 tion 35 of the Mineral Leasing Act (30 U.S.C. 191).

3 (b) WITHDRAWAL OF FEDERAL LAND.—Subject to
4 valid existing rights, the Federal land is withdrawn
5 from—

6 (1) disposition under the public land laws;

7 (2) location, entry, and patent under the mining
8 laws; and

9 (3) the operation of—

10 (A) the mineral leasing laws;

11 (B) the Geothermal Steam Act of 1970
12 (30 U.S.C. 1001 et seq.); and

13 (C) the first section of the Act of July 31,
14 1947 (commonly known as the “Materials Act
15 of 1947”) (30 U.S.C. 601).

16 (c) GRAZING PERMITS.—

17 (1) IN GENERAL.—If land acquired under this
18 Act is subject to a lease, permit, or contract for the
19 grazing of domestic livestock in effect on the date of
20 acquisition, the party acquiring the land shall allow
21 the grazing to continue for the remainder of the
22 term of the lease, permit, or contract, subject to the
23 related terms and conditions of user agreements, in-
24 cluding permitted stocking rates, grazing fee levels,

1 access rights, and ownership and use of range im-
2 provements.

3 (2) RENEWAL.—To the extent allowed by Fed-
4 eral or State law, on expiration of any grazing lease,
5 permit, or contract described in paragraph (1), the
6 holder of the lease, permit, or contract shall be enti-
7 tled to a preference right to renew the lease, permit,
8 or contract.

9 (3) CANCELLATION.—Nothing in this Act pre-
10 vents a party to a grazing permit, lease, or contract
11 from canceling the grazing permit, lease, or contract
12 if the land subject to the permit, lease, or contract
13 is sold, conveyed, transferred, or leased for non-graz-
14 ing purposes by the party.

15 (4) BASE PROPERTIES.—If land conveyed by
16 the State under this Act is used by a grazing per-
17 mittee or lessee to meet the base property require-
18 ments for a Federal grazing permit or lease, the
19 land shall continue to qualify as a base property for
20 the remaining term of the lease or permit and the
21 term of any renewal or extension of the lease or per-
22 mit.

23 (d) HAZARDOUS MATERIALS.—

24 (1) IN GENERAL.—The Secretary and, as a con-
25 dition of the exchange, the State shall make avail-

1 able for review and inspection any record relating to
2 hazardous materials on the land to be exchanged
3 under this Act.

4 (2) COSTS.—The costs of remedial actions re-
5 lating to hazardous materials on land acquired
6 under this Act shall be paid by those entities respon-
7 sible for the costs under applicable law.

8 (e) HISTORIC PROPERTIES.—A conveyance of Fed-
9 eral land under this Act shall not be considered to be an
10 undertaking under section 106 of the National Historic
11 Preservation Act (16 U.S.C. 470f) if the Utah State An-
12 tiquities Act (Utah Code Ann. 9–8–301 et seq.) or a simi-
13 lar State law is in effect on the date of the conveyance
14 of the Federal land.

15 (f) PROVISIONS RELATING TO FEDERAL LAND.—The
16 exchange of land under this Act shall be considered to be
17 in the public interest under section 206(a) of the Federal
18 Land Policy and Management Act of 1976 (43 U.S.C.
19 1716(a)).

20 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

21 There are authorized to be appropriated such sums
22 as are necessary to carry out this Act.

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